

**Town of Kinderhook
Planning Board Meeting
3211 Church Street
Valatie, NY 12184
September 17, 2015**

Approved 10/15/2015

Minutes

The Town of Kinderhook Planning Board met on Thursday, September 17, 2015, at 7:00pm at the Kinderhook Town Hall, 3211 Church Street, Valatie, NY. The Chairman called the meeting to order and the secretary called the roll.

A. Roll Call

Present:

Peter Haemmerlein, Chairman
Andy Howard, Town Attorney
Patrick Prendergast, Engineer
Jake Samascott
William Butcher
Dale Berlin
Chris Simonsen
Jonathan Cavagnaro, Alternate
Nataly Dee, Secretary

Excused:

Guy Rivenburgh
Dan Weiller, Alternate
Jason Graham

Absent:

To make quorum, Mr. Cavagnaro was asked to join the board as a full voting member.

B. Correspondence

1. Review of Minutes:

August 20, 2015 - Meeting;

Mr. Simonen made a motion to approve the drafted minutes. Mr. Butcher seconded the motion. All in favor. Motion carried; minutes approved.

C. Public Hearings

1. CaroVail, 831 CR 28, Niverville – Site Plan Review

Mr. Berlin made a motion to open the public hearing. Mr. Butcher seconded the motion. All in favor. Motion carried; hearing opened.

The Secretary read the notice as it appeared in the newspaper on Saturday, September 5, 2015 (on file).

Mr. George Schmitt of Morris and Associates, engineer representing the applicant, addressed the board and reviewed the proposal for the public and the board. He noted the dimensions of the existing building and the proposed new structure. He explained that there would be an access road around the building. Trucks would enter the site and pull around to the rear of the building for loading. He pointed

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out some of the building design details being added as per board's recommendations and code requirements. He explained the proposed use of the building, the storage, mixing and bulk distribution of fertilizer.

Mr. Haemmerlein invited the public to address the board.

Lawrence Gaylord, 16 Church St. He stated that he would probably be impacted more than anyone else. He noted that this is a rural community, a farming community. This proposal would probably more than double CaroVail's productivity. Mr. Schmitt noted that the bulk storage and loading would take place in the new building. Mr. Gaylord mentioned the dust particulate that currently exists. He asked if that would increase. He is unsure if that constitutes a health issue. He also noted that the traffic is also a potential issue. The proposed traffic flow was discussed and explained. Mr. Schmitt noted that the project is being reviewed by the county highway department. Mr. Gaylord was also concerned about the lights at night. He inquired if all the material is stored in the building. No outside silos are being proposed. He also questioned the hours of operation and what time they would be starting work in the morning.

Patty Kohl, 109 Lake St. She is concerned about the impact on the neighborhood and property values. She was concerned about the truck traffic. She wanted to know if ammonium nitrate is being used. She wanted to know what chemicals are being used. She also commented about the dust. She inquired about the process of approval and who was going to be the one to make the final determination. She offered that they should look for an alternate facility.

Regina Rose, 4 Columbia Ave. She noted that while she is happy to hear the building is coming down, she is not happy they are rebuilding. She stated that Niverville is the most densely populated area in the town. She is not in favor of the proposal. She is concerned about the environmental impact. She has heard the cancer rates are high in Niverville compared to the rest of the county. She appealed to the board to look into the potential environmental dangers and the potential impact on the residents. She was concerned about the water quality and the traffic patterns. She also thought the history of the business should be looked in to. She is already concerned about the water quality in Niverville. She stated that some very good points have been made. She does not think this type of business belongs in a residential area and the company should relocate their proposal to another location that is less densely populated.

Robert Wells. He submitted a letter which was read by the Chairman (on file). He stated that a lot of people are concerned about this proposal. He stated that the impact is greater than 300'. He inquired about another meeting so more people would have the opportunity to attend.

Mark Tibbitts, 6 Church St. He questioned why he did not receive a notice. He was concerned about the idling trains. He inquired whether the silos would be covered. He felt the board should look into the environmental laws regarding dispersal of particulate.

Aljiz Dzekciorius, 830 Main St. He is also concerned about the dust. He is concerned that the materials being used will leach into the groundwater. He noted that the tractor-trailers already run all night long; that will only increase. He is also concerned about the environmental and health impacts. He stated that there is a lot of spillage of material onto the ground.

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Stanley Dzek, 830 Main St. He inquired if there is a copy of the original application from when CaroVail first started their business. He questioned the hours of operation. He believes the original application restricted hours of operation from 7am-7pm. He was concerned that the employees do not wear any protective gear. He was of the opinion that they should not be able to expand their operation until they are able to perfect the current operation. There is a disregard of the community. He is in favor of business but feels company's should be responsible and accountable. He is concerned that no one on the planning Board has looked at the original application. He was of the opinion that CaroVail is policing themselves and shouldn't be allowed to do that.

Michael Allegretta, 11 Church St. He asked why there was no one from CaroVail available to answer questions. He questioned the procedure of approval. He questioned what would happen after tonight. The Chairman explained the process. He inquired about a town noise ordinance.

Patrick Ball, 102 Van Buren Ave S. He inquired about the height difference between the existing building and the proposed. Mr. Schmitt noted that the existing building is 38.7' and the proposed building is 32.5. He was of the opinion that since this is a newly acquired piece of property and a new proposal that it would have to conform to the current laws, as opposed to anything pre-existing or grandfathered in. He noted that just because materials are dry, they become airborne; they land on the ground, mix with rain water and become liquid. He lives on the other side of the tracks but this proposal will have more of an impact on his property as the loading is proposed at the rear. He inquired about any proposed noise barriers to alleviate some of the noise. He felt there was no consideration given to the residents in the planning of the project. He also inquired about landscaping, etc.

Charlotte Di Paola, 905 Ct Rte 28. She was also concerned about the traffic. She stated that no business is going to invest this kind of money and expect anyone to think that they will not be expanding production.

Jason Nooney, 19 Church St. He stated that they are deeply impacted by the operation; the traffic, the lights, the dust. He was also concerned about property values. He felt that Niverville does not get proper consideration. He was of the opinion that this proposal would negatively affect the residents of the community.

Cheryl Noeth, 7 Railroad Ave. She stated that exhaust from their operation blows right into her back yard. The company has no consideration for access to her property.

Tammy McLean, 56 Pine Hill Park. She was concerned about what is going to be in the building. She noted that a government organization needs to oversee and regulate the operation. Additionally, she was also concerned about traffic, which is dangerous coming around the corner. She wants answers and felt a representative from CaroVail should have been in attendance to answer questions.

Susan Ramos, 170 The Concourse. She stated that she lives behind CaroVail. She noted that it is very noisy, they leave trains idling, she cannot open her windows, there is a white powder dust on surfaces, and she does not drink the water. She noted that trains are often parked on the tracks for days. She is concerned about the dust and the traffic.

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Warren Kohl, 109 Lake St. He inquired about what was next. He was concerned there would be more expansion.

Marielle Ball, 102 Van Buren Ave S. She was concerned about theft at CaroVail and that the proposal would make more places on the property to hide and would lead to more theft. There is not good security. She is definitely not in favor of the proposal.

Mr. Haemmerlein thought there were many more questions that still need to be addressed and resolved. He entertained a motion to leave the hearing open.

Mr. Simonsen made a motion to keep the meeting open and adjourn until next month. Mr. Samascott seconded the motion. All in favor. Motion carried; hearing adjourned.

The board engaged in a discussion and comments were made about the proposal. Mr. Berlin noted that the location of the conveyor belt is much more clearly displayed in the current set of plans. The cut-sheet of the lighting was reviewed. It was noted that wall pack, small led lights, meant to illuminate entrances rather than parking areas. It was requested that the plans indicate the location and lumens be shown. Mr. Prendergast suggested that to address some of the security concerns brought up during the public hearing that lighting be added to parking areas. Mr. Simonsen addressed the drainage and inquired what is existing and what is being proposed. Mr. Schmitt indicated the existing basin, and noted that the county DPW is currently reviewing as there are apparently drainage issues as the terrain is flat. A new basin will be installed and another one may be added. A new pipe with a flared end section will be added. It was noted that the county DPW has not completed their review. Conceptually, they are ok with it, the entrances are ok, they would like to address the drainage further. No additional drainage is proposed for the new structure; what currently exists will be revamped and replaced. Whatever runoff is generated on the site will run toward the drainage in the front. The rear will swale toward the front drainage. Mr. Schmitt noted that the elevation is about one foot higher in the rear than in the front. It is still a work in progress; the best solution is being sought. Will the new equipment produce less dust? The new shoot is different from the existing shoot, but Mr. Schmitt could not comment further on the specifics of the design noting the manufacturer of the equipment would have to speak to that. It would be advantageous to have a representative of the applicant present to address these questions. A list of the products/materials being used will be submitted. Mr. Howard inquired about any specifications with regard to the sound at the proposed site. The question is would the proposed mechanics be any quieter than what is currently occurring. The landscaping plan was also addressed. Mr. Schmitt noted that birches and aromatic sumac were proposed. Additionally noting that these will not impact site distance but will dress up the front of the building.

The Engineer will be conducting his review. He will also be asking for a fee to be held in escrow.

D. Old Business

1. ELLE-KAZ, Orinsekwa Road/County Route 28 – Major Subdivision;

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As per the Building Department, the work has been completed. Mr. Kazer has requested a release of the funds held in escrow. This process is underway.

2. Marcel St Onge /Old Kinderhook Self-Storage, Route 9, Valatie – Site Plan Review;

Mr. VanAlstyne addressed the board and distributed updated plans for review. The Storm Water Pollution Prevention Plan (SWPPP) was submitted. Mr. VanAlstyne provided updates on the lighting as that there was a concern about spread off the site. He noted that the lights had been proposed to point at 20%, but are now proposed to point at 10%. Additionally, he noted that some lights have been moved. Lumens are shown on the plans. Notes were added to the plans that no bleeding of light onto other lands shall transpire. Mr. VanAlstyne addressed the drainage, noting that sheet flow to the outside to the ditches will flow to a catch basin; the water will flow to the ditches and through some rip-rap. He noted that 4 deep hole tests were conducted beyond 9', and no water was observed. A catch basin/dry-well was added to that run, detail can be seen on the last sheet of the plans. Elevations and drywells are shown on the plans. As a result of this work, greenspace was gained. The proposal was at 75/25% greenspace, now at 68/32%. Landscaping and trees were addressed. A 6' high, black slotted, chain-link fence is proposed along the rear of the property which abuts the residentially zoned area. The fence will continue along the south property line. The property line to the east with Dollar General will have white pines buffering the two sites. Page 2 indicates the different building elevations. Details for the catch basin were added. The easement with Dollar General was submitted and it was noted that it meets the required 45'. The deed language was provided for and reviewed by the attorney. An email from Mr. Weiller, alternate member, who could not be present at the meeting, was read (on file). The email noted review of the planting, drainage, and elevation of property relative to the neighboring properties and neighboring orchard. The Engineer will review the details of the drainage proposal. The project needs to be referred to County Planning for their review.

Mr. Simonsen made a motion to refer the project to the County Planning Board and to set the Public Hearing for October 15, 2015 at 7:05pm. Mr. Berlin seconded the motion. All in favor. Motion carried.

3. 7th Day Adventists – Route 9, Valatie – Site Plan Amendment;

Mr. Freddie Colon addressed the board and reviewed the pending issues. They would like to delay the paving of the lot and landscaping until next spring. They also propose a change in the lighting. The applicant's contractor, Don Hills, spoke with the Engineer regarding the lighting; the poles were approved at 14'. Currently, six polls are being proposed. There is however, a change in the look/style of the lighting fixtures. While the code does not make note of specific aesthetics features of light fixtures, it does make note of traditional design. A discussion ensued about the design of the light poles and fixtures. Mr. Simonsen inquired how the changing the number of poles differed from the design of the poles and fixtures. The Attorney did note that the original plan was reviewed at a public hearing, and that was the plan approved by the board. However, it was noted that the board does have some discretion on the matter. Ms. Gloria Haake, representing the church, questioned the board's hesitancy to approve the change in the design of the lights. Mr. Haemmerlein addressed her query, explaining that originally, it was not the design that was being proposed to be changed, but rather the number of poles.

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Additionally, this is the first mention of a design change. Whether a public hearing should be held on the matter was discussed. The approved design was reviewed and the differences noted. The applicant stated that they would attempt to conform to the original design. It was noted that perhaps it was a matter of finances that precipitated the design change. However, the applicants' expressed no preference regarding the design; they were more concerned with the long term cost effectiveness of the lighting than the design, but they are willing to conform to the wishes of the board. Moreover, it was noted that the matter of the paving and landscaping can be resolved by the issuance of a temporary Certificate of Occupancy by the Building Department. The applicants should provide a new lighting cut-sheet to the engineer. Timing is still an issue regarding the lighting in that winter is coming. The board was confident that if the electrician could come up with an alternate design the project could continue in a seasonally timely manner to have the lights poles roughed out and installed.

E. New Business

1. Frank and Kathleen Eschberger, 63 Oak Leaf Drive Stuyvesant – Accessory Apartment;

No one in attendance to represent this proposal.

2. Kyle Mitchison, County Route 32 – Minor Subdivision;

Mr. VanAlstyne stated that this project is on the agenda of the Schodack Planning Board. Additionally, he noted that a crossing permit needs to be obtained from the power company. When the project has been approved before that board, then it will come before the Kinderhook Planning Board for their review.

3. Richard Bianchi, 262 & 240 Hennett Road, Valatie – Minor Subdivision/Lot Line Adjustment

Mr. VanAlstyne reminded the board that this is a proposed lot line adjustment to resolve an issue regarding a tree fort erroneously built on a neighboring property. A Public Hearing will have to be held.

Mr. Berlin made a motion to set the Public Hearing for 7:15pm on October 15th. Mr. Simonsen seconded the motion. All in favor. Motion carried.

F. ZBA Opinions

None

G. Liaisons

1. Village Planning Boards

2. Town Board: Mr. Simonsen reported the approval of a local law for best value bidding that allows one municipality to jump on the bidding process initiated by another municipality. There is a proposed change of classification of Ct Rt 21 to a "collector street". The village has already passed it.

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Essentially, when improvements happen on 9H, consideration will be given to Rt 21. The Town budget hearing will be Sept 30 at 6:30pm. The Code's Committee is scheduled to meet on October 7 at 6:30pm.

H. Other

1. Public Comment

Patrick and Mariann Ball noted that the process was interesting to be involved in and to see how the process worked. Further discussion ensued about the noise, the trains and the engines that idle.

Mr. Berlin made a motion to adjourn the meeting. Mr. Samascott seconded the motion. All in favor. Motion carried; meeting adjourned at 9:21pm.

Respectfully submitted,

Nataly Dee, Secretary